



**RTK NETWORK CMRx SUBSCRIPTION AGREEMENT**

This RTK Network Subscription Agreement (the “**Subscription Agreement**”) is entered into as of the Effective Date specified below (the “**Effective Date**”) between AllTerra Central, Inc. (“**Provider**”) and the Subscriber listed below that signs this Subscription Agreement (“**Subscriber**”).

<b>Subscriber:</b>	Contact:
Address:	Phone:
	E-Mail:

**Effective Date:** \_\_\_\_\_

**Network:** As used in this Subscription Agreement, the term “**Network**” means the virtual reference station (“**VRS**”) network established within the States of Texas, Oklahoma, New Mexico and Arizona for the purpose of providing Subscribers with GNSS networked VRS connections.

**Subscription:** Subject to all the terms of this Subscription Agreement, including Subscriber’s timely payment of Fees, Provider will make the Network available to Subscriber in accordance with this Subscription Agreement, including the Terms or Service.

**Term:**

This Subscription Agreement is for the Initial Term specified below, and shall be automatically renewed for additional Renewal Terms specified below (collectively, the “**Term**”), unless either party gives written notice of non-renewal to the other party at least thirty (30) days prior to the end of the then-current term.

**Initial Term:** Twelve (12) months commencing on the Effective Date and ending on the first anniversary thereof

**1<sup>st</sup> Renewal Term:** Period commencing on date of expiration of Initial Term and ending on December 31<sup>st</sup> of that same year

Renewal Terms after 1<sup>st</sup> Renewal Term: Twelve (12) months commencing on January 1<sup>st</sup> of the year following 1<sup>st</sup> Renewal Term

**Fees:**

Membership: \_\_\$2000\_\_. This is a one-time fee that will be invoiced upon execution of this Subscription Agreement.

Annual Fee for following two years: \$\_\_1,000\_\_. The Annual Fee shall be invoiced in advance on January 1<sup>st</sup> of each calendar year after the Effective Date. The first Annual Fee billing will be reduced pro-rata for the number of months less than twelve in the first Subscription year (the calendar year of the Effective Date).



For each additional renewal Term, the Annual Fee shall be adjusted to the then-current Annual Fee. Customers beyond their third year will continue with the “Additional Renewal term” fee to be determined annually.

**Assignment, Assumption and Release:**

Subscriber hereby assigns to Provider all right, title and interest that Subscriber may have (if any) in and to the Network and Provider hereby accepts such assignment. In consideration of the foregoing assignment: (i) Provider hereby assumes and agrees to pay all liabilities arising out of, or related to, the operation, management, administration and maintenance of the Network prior to the Effective Date, including, without limitation, all liabilities relating the Network for accrued and unpaid income, property and other taxes (and any applicable fines or penalties resulting from non-payment thereof); and (ii) Subscriber hereby releases Provider and its affiliates, and the Network, from any past, present or future claims that Subscriber has or may have, that arise or relate to (x) the operation, management, administration and maintenance of the Network prior to the Effective Date or (y) any ownership interest the Subscriber has or may have in the Network.

**Additional Terms (if any):**

IN WITNESS WHEREOF, Provider and Subscriber have caused their authorized representatives to sign this Subscription Agreement to be effective as of the Effective Date.

**AllTerra Central, Inc.**

**Subscriber:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_



## **RTK NETWORK - TERMS OF SERVICE**

These RTK Network - Terms of Service (“**Terms of Service**”) are attached to, and incorporated by reference into, a Subscription Agreement (“**Subscription Agreement**”) between AllTerra Central, Inc. (“**Provider**”) and the Subscriber named in the Subscription Agreement (“**Subscriber**”). All references to the Subscription Agreement include the Subscription Agreement signed by the parties, these Term of Service and any other document incorporated by reference into either the Subscription Agreement or these Term of Service. Capitalized terms used but not otherwise defined in these Term of Service are defined in the Subscription Agreement.

THESE TERMS OF SERVICE GOVERN SUBSCRIBER’S USE OF THE NETWORK IDENTIFIED IN A SIGNED SUBSCRIPTION AGREEMENT (the “**Network**”). SUBSCRIBER SHOULD READ THESE TERMS OF SERVICE CAREFULLY.

### **1. NETWORK**

1.1 Network. Provider will make the Network available to Subscriber in accordance with this Subscription Agreement. Provider may, in its sole discretion, modify, enhance and/or expand the Network at no additional cost to Subscriber. Provider may also modify, enhance or expand the Network by providing additional features or functionality, which may, but are not required to be, added by Subscriber to this Subscription Agreement at additional cost. Such additional cost features and functionality may be added by mutual written agreement of the parties.

1.2 Availability. Provider will use commercially reasonable efforts to make the Network available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which Provider will provide reasonable notice), and (b) any unavailability caused by circumstances beyond Provider’s reasonable control, including, but not limited to, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Provider’s employees), Internet service provider failure or delay, failure or delay of service from any third party provider, or denial of service attack.

### **2. RESTRICTIONS AND RESPONSIBILITIES**

2.1 Use of the Network is subject to limits that are specified in the applicable Subscription Agreement. Unless otherwise specified in the applicable Subscription Agreement, the Network may not be accessed by more than the number of Rovers specified in the applicable Subscription Agreement. If Subscriber exceeds a contractual usage limit, Provider may work with Subscriber to seek to reduce Subscriber’s usage so that it conforms to that limit. If, notwithstanding these efforts, Subscriber is unable or unwilling to abide by a contractual usage limit, Subscriber will execute a Subscription Agreement for additional quantities of Rovers promptly upon request, and/or pay any invoice for excess usage in accordance with this Subscription Agreement. Additional Rovers may be purchased during the Term by signing an additional Subscription Agreement and paying the additional fees for such additional Rovers.

2.2 Subscriber will: (a) be responsible for its users’ compliance with this Subscription Agreement; (b) use commercially reasonable efforts to prevent unauthorized access to or use of the Network, and notify Provider promptly of any such unauthorized access or use; (c) use the Network only in accordance with this Subscription Agreement, Provider’s published policies in effect from time-to-time and applicable laws and government rules and regulations; and (d) provide Provider with assistance, information and materials that are reasonably requested as necessary to effectively provide the Network.



2.3 Subscriber will not, directly or indirectly, do any of the following: (a) make the Network available to, or use the Network for the benefit of, anyone other than Subscriber or its authorized Rovers; (b) sell, resell, license, sublicense, distribute, rent or lease the Network without Provider's written approval; (c) interfere with or disrupt the integrity or performance of any the Network; (d) attempt to gain unauthorized access to the Network; or (e) permit direct or indirect access to or use of the Network in a way that circumvents a contractual usage limit.

2.4 Subscriber will not, directly or indirectly: (a) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Network or any software, documentation or data related to the Network ("**Software**"); (b) modify, translate, or create derivative works based on the Network or any Software (except to the extent expressly permitted by Provider or authorized within the Network); or (c) use the Network or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party.

2.5 Although Provider has no obligation to monitor Subscriber's use of the Network, Provider may do so and may prohibit any use of the Network it believes may be (or alleged to be) in violation of this Section 2 or any other provision in this Subscription Agreement.

2.6 Subscriber shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Network (collectively, "**Equipment**"). Subscriber shall also be responsible for maintaining the security of the Equipment, Subscriber account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Subscriber account or the Equipment with or without Subscriber's knowledge or consent.

### 3. CONFIDENTIALITY; PROPRIETARY RIGHTS

3.1 Each party (the "**Receiving Party**") understands that the other party (the "**Disclosing Party**") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "**Proprietary Information**" of the Disclosing Party). Proprietary Information of Provider includes non-public information regarding features, functionality and performance of the Network. The Receiving Party agrees: (i) to take reasonable precautions to protect the Proprietary Information of the Disclosing Party; and (ii) not to use (except in performance of the Network or as otherwise permitted herein) or divulge to any third person the Proprietary Information of the Disclosing Party. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document: (a) is or becomes generally available to the public; (b) was in its possession or known by it prior to receipt from the Disclosing Party; (c) was rightfully disclosed to it without restriction by a third party; (d) was independently developed without use of any Proprietary Information of the Disclosing Party; or (e) is required to be disclosed by law.

3.2 Provider shall own and retain all right, title and interest in and to (a) the Network and Software, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with the Network or support, and (c) all intellectual property rights related to any of the foregoing.

3.3 Subscriber hereby grants Provider a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Network and/or Software any suggestions, enhancement requests, recommendations, correction or other feedback provided by Subscriber, including Users, relating to the functionality and/or operation of the Network and/or Software.

3.4 Notwithstanding anything to the contrary, Provider shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Network and related systems and technologies, and Provider shall also have the right (during and after the Term hereof)



to (a) use such information and data to improve and enhance the Network and for other development, diagnostic and corrective purposes in connection with the Network and other Provider offerings, and (b) disclose such data, so long as it doesn't otherwise disclose the Proprietary Information of Subscriber.

3.5 No rights or licenses are granted except as expressly set forth herein.

#### **4. FEES AND PAYMENT**

4.1 Subscriber will pay Provider the applicable fees described in the Subscription Agreement (the "Fees").

4.2 Provider will invoice Subscriber for Fees due under this Subscription Agreement. All invoices are due and payable within thirty (30) days following Subscriber's receipt of the invoice.

4.3 If Subscriber's use of the Network exceeds any of the limitations set forth on the Subscription Agreement or otherwise requires the payment of additional Fees, Subscriber shall be billed for such usage and Subscriber agrees to pay the additional Fees in the manner provided herein.

4.4 If any amount owing by Subscriber is thirty (30) or more days overdue, Provider may, without limiting its other rights and remedies, suspend the Network to Subscriber until such amounts are paid in full.

#### **5. TERM AND TERMINATION**

5.1 The Term shall be as set forth in the Subscription Agreement.

5.2 In addition to any other remedies it may have, either party may also terminate this Subscription Agreement upon thirty (30) days' written notice (or five (5) days' written notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Subscription Agreement.

5.3 All sections of this Subscription Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

#### **6. PROVIDER WARRANTIES; DISCLAIMER**

6.1 Provider shall use reasonable efforts consistent with prevailing industry standards to maintain the Network in a manner which minimizes errors and interruptions in the Network. The Network may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, or because of other causes beyond Provider's reasonable control, but Provider shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, PROVIDER DOES NOT WARRANT THAT THE NETWORK WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE NETWORK. SUBSCRIBER IS RESPONSIBLE FOR APPLYING GOOD SURVEYING PRACTICES AND REDUNDANCIES TO THEIR WORK TO MINIMIZE ERRORS. THE SUBSCRIBER TAKES SOLE RESPONSIBILITY FOR ACCURACY IN ANY WORK IT PERFORMS.

6.2 EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SUBSCRIPTION AGREEMENT, THE NETWORK AND SUPPORT SERVICES ARE PROVIDED "AS IS" AND PROVIDER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

#### **7. INDEMNITY**

Each party ("**Indemnifying Party**") shall indemnify and defend the other party and its officers, directors, shareholders, members, managers, employees, agents and affiliates (each, an "**Indemnified Party**") against any claim, including costs and reasonable attorney's fees, in which the Indemnified Party is named



as a result of the grossly negligent or intentional acts or omissions of the Indemnifying Party, its employees or agents, while performing its obligations pursuant to this Subscription Agreement, which result in death, personal injury or property damage; provided that (a) the Indemnified Party gives the Indemnifying Party prompt notification in writing of any such claim and reasonable assistance, at the Indemnifying Party's expense, in the defense of such claim; and (b) the Indemnifying Party has the sole authority to defend or settle such claim as long as such settlement shall not impose a financial obligation on, or include an admission of liability by, the Indemnified Party.

## **8. LIMITATION OF LIABILITY**

8.1 PROVIDER AND ITS LICENSORS AND SUPPLIERS ARE NOT RESPONSIBLE OR LIABLE WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS SUBSCRIPTION AGREEMENT UNDER ANY THEORY OF LIABILITY, INCLUDING, WITHOUT LIMITATION, CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY, FOR ANY: (A) INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR SPECIAL DAMAGES; (B) LOSS OF BUSINESS BY SUBSCRIBER, ERROR OR INTERRUPTION OF USE OF THE NETWORK, LOSS OR INACCURACY OR CORRUPTION OF DATA, OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; OR (C) ANY MATTER BEYOND PROVIDER'S REASONABLE CONTROL; IN EACH CASE, WHETHER OR NOT PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2 PROVIDER AND ITS LICENSORS AND SUPPLIERS ARE NOT BE RESPONSIBLE OR LIABLE FOR ANY DAMAGES OR OTHER LIABILITIES ARISING OUT OF OR RELATING TO THIS SUBSCRIPTION AGREEMENT THAT EXCEED, IN THE AGGREGATE (WHEN TAKEN TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS) THE FEES PAID BY SUBSCRIBER TO PROVIDER FOR THE NETWORK UNDER THE SUBSCRIPTION AGREEMENT IN THE 12 MONTHS PRIOR TO THE EVENT OR ACT THAT GAVE RISE TO THE LIABILITY.

8.3 The limitations on liability in this Section 8 do not apply: (a) to claims based on personal injury or death; or (b) if prohibited by applicable law.

## **9. MISCELLANEOUS**

9.1 To the extent a Subscriber purchase order or similar document contains terms and conditions that are different from or inconsistent with this Subscription Agreement, such terms are hereby rejected and this Subscription Agreement shall control over any such different or inconsistent terms.

9.2 If any provision of this Subscription Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Subscription Agreement will otherwise remain in full force and effect and enforceable.

9.3 This Subscription Agreement is not assignable, transferable or sublicensable by Subscriber except with Provider's prior written consent. Provider may transfer and assign any of its rights and obligations under this Subscription Agreement without consent.

9.4 This Subscription Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Subscription Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein.

9.5 All notices under this Subscription Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted



by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

9.6 This Subscription Agreement shall be governed by the laws of the State of Texas without regard to its conflict of law's provisions,

9.7 No agency, partnership, joint venture, or employment is created as a result of this Subscription Agreement and Subscriber does not have any authority of any kind to bind Provider in any respect whatsoever.